

REMARKS

Applicant has amended claims 1, 4-6, 14, 20-25, and 28-29. Claims 8-9 have been canceled. The Specification has been amended to include the ATCC deposit information. A receipt from ATCC is attached. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §§102(b), 103, and 112 rejections as set forth in the Office Action dated May 9, 2005. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claims 1, 6, 22, 23, and 28 for the inclusion of a blank line where the ATCC Accession number should be. Applicant has amended claims 1, 6, 22, 23, and 28 to include the ATCC Accession number. Withdrawal of this objection is respectfully requested.

The Examiner has objected to claim 28 for grammatical incorrectness. Applicant has amended claim 28 as suggested by the Examiner. Withdrawal of this objection is respectfully requested.

The Examiner has rejected claims 1, 6, 20-24, 28, and 29 and claims 2-5, 7-21, and 25-27 dependent thereon, under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Specifically, the Examiner has rejected claims 1, 6, 22-24, 28, and 29 and claims 2-5, 7-21, and 25-27 dependent thereon, as being indefinite in that the recitation of "a soybean line designated 0509251" does not clearly identify the claimed soybean cultivar and seed and does not set forth the metes and bounds of the claimed invention. Applicant has amended claims 1, 6, 22, 23, and 28 to state the ATCC Accession number. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 20-21 and 28-29 under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. Applicant has amended claims 20-21 and 28-29. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8-9, 23-24, and 28-29 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 8-9 and amended claims 23-24 and 28-29. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-29 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has amended claims 1, 6, 22, 23, and 28 to include the ATCC Accession number. Additionally, the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit was performed; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

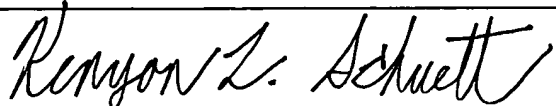
Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8-9 under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103 as obvious over soybean cultivar 943188628018 (U.S. Patent 5,866,771; issued 2/02/1999). Applicant has canceled claims 8-9. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§102(b), 103, and 112. Reconsideration of this application and an early notice of allowance is respectfully requested.

Application No. 10/779,583
Amendment dated June 20, 2005
Reply to Office Action dated May 9, 2005

Page 10

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
NAME AND REG. NUMBER	Kenyon L. Schuett, Reg. No. 44,324				
SIGNATURE			DATE	June 20, 2005	
Address	Jondle & Associates P.C. Suite 200, 9085 East Mineral Circle				
City	Centennial	State	CO	Zip Code	80112
Country	U.S.A.	Telephone	303-799-6444	Fax	303-799-6898



AMERICAN TYPE CULTURE COLLECTION
10801 University Blvd.
Manassas, VA 20110-2209
Telephone: 703-365-2700
Fax: 703-365-2745

FACSIMILE

Date: June 10, 2005

To: Kenyon L. Schuett
Fax Number: 303-799-6898

From: ATCC Patent Depository **Number of pages:** 1 (Including this page)


REFERENCE: Patent Deposit (Ref: Docket or Case No: 1421-150 and 1421-149)

Description: Soybean, Glycine max (L.): 0509248 assigned PTA-6730
Soybean, Glycine max (L.): 0509251 assigned PTA-6731

Date of Deposit: May 25, 2005

The ATCC Certificate of Deposit will be forwarded to you within 30 days. An invoice will be sent under separate cover as follows:

Total Fees for PTA-6730 and PTA-6731 \$ 5,000.00
(Storage/informing/viability testing)



Marie Harris, Patent Specialist
ATCC Patent Depository

The information contained in this facsimile is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are notified that any dissemination or distribution, except to the intended recipient of this communication, is prohibited. If you have received this communication in error, please call us immediately at the telephone number listed above.